



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 07 2014

REPLY TO THE ATTENTION OF:

E-19J

Ian Chidister
Federal Highway Administration - Wisconsin
535 Junction Road, Suite 8000
Madison, Wisconsin 53717

Dear Mr. Chidister:

The U.S. Environmental Protection Agency has reviewed the letter and supporting documentation dated April 3, 2014 from Gary Evans of Waukesha County regarding the selection of Pebble Creek West as the preferred alternative for part of the West Waukesha Bypass Corridor Study. The Federal Highway Administration (FHWA) and the Wisconsin Department of Transportation (WisDOT) support the selection of Pebble Creek West, and the Wisconsin Department of Natural Resources (WDNR) has provided its concurrence.

EPA appreciates the additional information provided and agrees that this information is adequate enough to make a determination on the least environmentally damaging practicable alternative (LEDPA), which is part of the Clean Water Act – Section 404 permitting process. EPA expects the information dated April 3, 2014 to be, at minimum, memorialized in the Final Environmental Impact Statement (EIS). However, in addition to several clarifications, we continue to have concerns about the identification of and commitment to mitigation measures. Therefore, we concur with Pebble Creek West as the preferred alternative for this segment, under the condition that the mitigation measures discussed below are incorporated into the project and committed to in the Record of Decision (ROD).

EPA recommends the following mitigation measures be incorporated into the overall mitigation package. These measures should be included in the Final EIS. Our concurrence is contingent upon the assurance that these mitigation measures will be included as a part of the project. A commitment to undertake these measures needs to be included in the ROD.

- Permanent, legal protection of the remaining wooded upland; EPA does not view property owner participation in the state forest management program as sufficient permanent, legal protection.
- Tree mitigation for any loss of trees in the upland area at a 1:1 ratio.

- Preservation of a fen, offsite but within the Upper Fox River watershed to mitigate for impacts to Wetland-8. We recommend WisDOT and FHWA mitigate for the entire acreage of the fen, regardless of actual acreage of direct impacts, to account for indirect impacts.

EPA also recommends the following clarifications are made to the memo in the Final EIS:

- The discussion under *Wetlands* on page 2 includes a matrix of "functions" and "significance" for Wetland-8, the sedge fen immediately south of Sunset Drive. The current discussion concludes that the fen is of overall medium/low quality. However, fens don't exhibit three of the eight functions listed, including flood/stormwater attenuation, water quality protection, and shoreline protection. Wetland-8 is rated low in two of these functions and medium in the other. EPA recommends that the discussion in the Final EIS reflect that fens do not provide these functions and the functional significance of this fen should be revised accordingly.
- The discussion under *Impacts* and number 5 under *Conclusion* on page 7 states that an area of 0.5 acres of interior forest habitat will continue to provide forest interior habitat. This statement should be documented. The enclosed memorandum from the Southeastern Wisconsin Regional Planning Commission (SEWRPC) cites this information as coming from personal communication with Michael Mossman (Bureau of Science Services, WDNR, November 2013). EPA recommends the Final EIS include any scientific research or literature to verify this information. Alternatively, if none exists, the Final EIS should so indicate.

Finally, please note that EPA retains the right to provide addition comments on design specifics during the Clean Water Act – Section 404 permitting stage.

Sincerely,



Kenneth A. Westlake
Chief, NEPA Implementation Section
Office of Enforcement and Compliance Assurance

cc: Marie Kopka, U.S. Army Corps of Engineers
Mark Chandler, Federal Highway Administration - Wisconsin
Douglas Cain, Wisconsin Department of Transportation
Michael C. Thompson, Wisconsin Department of Natural Resources
Gary Evans, Waukesha County
Charlie Webb, CH2M Hill
Don Reed, Southeastern Wisconsin Regional Planning Commission